

25411-HES

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARY ROPER,

Plaintiff,

v.

WAL-MART STORES, INC., a foreign
corporation d/b/a WALMART
SUPERCENTER,

Defendant.

No. 16-cv- 7338

NOTICE OF REMOVAL

The Defendant, WAL-MART STORES, INC., by and through its attorney, Heather E. Shea of O'Hagan, LLC, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removes this action to the United States District Court for the Northern District of Illinois, Eastern Division, and in support thereof, states as follows:

1. The movant's Notice of Removal is based upon subject-matter jurisdiction conferred by diversity of citizenship, as established in 28 U.S.C. § 1332.

2. The named Plaintiff is currently and was at the time of the subject accident a citizen and resident of the State of Illinois. (*See* Plaintiff's Response to Wal-Mart Stores, Inc.'s Request to Admit Facts, attached hereto as Exhibit A.)

3. Both at the time of the commencement of the State Court action and at the present time, Defendant, WAL-MART, was and is a Delaware Corporation and its executive headquarters were and are located in Bentonville, Arkansas. (*See* Arkansas Secretary of State Business Information Search, attached as Exhibit B.) A corporation has a single principal place of business where its executive headquarters are located. *Metropolitan Life Ins. Co. v. Estate of Cammon*, 929

25411-HES

F.2d 1220, 1223 (7th Cir. 1991). Therefore, at all pertinent times, WAL-MART is and has been a citizen of Delaware and Arkansas.

4. This matter arises out of an accident which occurred on November 27, 2014, at the Wal-Mart Store located at 2680 North Illinois Route 83, Village of Round Lake Beach, County of Lake, State of Illinois. Plaintiff, MARY ROPER, filed a Complaint in the Circuit Court of Lake County, Law Division, styled Mary Roper v. Wal-Mart Stores, Inc., a foreign corporation, d/b/a Walmart Supercenter, bearing Lake County, Illinois, Case No. 2016 L 411. (See Plaintiff's Complaint attached as Exhibit C).

5. In her Complaint, Plaintiff brings claims of negligence, alleging that on November 27, 2014, Plaintiff, MARY ROPER, was injured when she fell as a result of ice in the parking lot, sidewalk and/or a walkway located on the premises, allegedly as a result of negligence on the part of Defendant, WAL-MART. (See Ex. C.)

6. WAL-MART first received Plaintiff's Complaint when it was served with process on June 1, 2016. (See Ex. C).¹ In response to this Complaint, WAL-MART filed its Appearance and Jury Demand on June 22, 2016. (See Defendant's Appearance and Jury Demand attached as Exhibit D.)

7. The Complaint alleges Plaintiff suffered damages through boilerplate language that she incurred damages as a result of physical injuries in an amount greater than Fifty Thousand (\$50,000.00) Dollars. (Ex. C.)

8. On June 10, 2016, Wal-Mart propounded its Request to Admit Facts to Plaintiff with regard to citizenship and the amount in controversy. (See Defendant's Request to Admit attached as Exhibit E.)

¹ Pursuant to 28 U.S.C., § 1446(a), WAL-MART has attached as Exhibit C, a copy of the Plaintiff's Complaint, Summons, and all other pleadings served upon the movant as of the date of this Notice.

25411-HES

9. Plaintiff filed her response to the Request to Admit Facts on June 30, 2016, then later filed her Amended Response, within the twenty-eight days mandated by Illinois Supreme Court Rule 216, admitting both requests namely, (1) that on the day of the commencement of this action and at the present time, that she was and remains a citizen of the State of Illinois, and (2) that the damages sought by her in this action exceed \$75,000.00. (*See* Ex. A, and Plaintiff's Amended Response to Request to Admit Facts, attached hereto as Exhibit F.)

10. Where a case is not removable by review of the initial pleadings, WAL-MART has a statutory right to file its Notice of Removal "thirty days after receipt...of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b)(3). As established in this Notice, WAL-MART has properly filed its Notice of Removal within the applicable thirty-day time frame, as until June 30, 2016, the date upon which Plaintiff filed her original Responses to Defendant's Request to Admit Facts, WAL-MART had no notice this case exceeded the jurisdictional amount necessary to trigger removal or that there was diversity of citizenship.

11. In Plaintiff's Responses to Defendant's Requests to Admit Facts, Plaintiff admitted that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. (Ex. A.)

12. Plaintiff also admitted that there is complete diversity of citizenship between Plaintiff and Defendant, WAL-MART. (Ex. A.)

13. With the first notice that the amount in controversy exceeded \$75,000 occurring on or about June 30, 2016, this Notice was filed within thirty (30) days of "receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b)(3).

25411-HES

14. As required by 28 U.S.C. § 1446(d), the movant will promptly serve upon Plaintiff's counsel, and file with the Circuit Court of Lake County, a true and correct copy of this Notice.

15. By removing this action, Defendant does not waive any defenses available to it.

16. If any question arises as to the propriety of the removal of this action, the movant requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

17. This Notice is signed and in compliance with Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, WAL-MART STORES, INC., prays that this Honorable Court retain jurisdiction of the matter pursuant to 28 U.S.C., §§ 1332, 1441, and 1446.

Respectfully Submitted,

O'HAGAN, LLC

By: /s/ Heather E. Shea
Heather E. Shea

Heather E. Shea, #6226070
Attorneys for Defendant, Wal-Mart Stores, Inc.
O'HAGAN, LLC
1 E. Wacker Drive, Ste. 3400
Chicago, Illinois 60601
(312) 422-6100

25411-HES

CERTIFICATE OF SERVICE

I certify that on the **19th** day of **July, 2016**, service of a true and complete copy of the above and foregoing pleading or paper was made upon all counsel of record by depositing the same in the United States mail, first-class postage prepaid, in envelopes properly addressed to each of them.

/s/ Heather E. Shea
O'HAGAN, LLC
1 E. Wacker Drive, Ste. 3400
Chicago, Illinois 60601
(312) 422-6100